

Office of the Attorney General

<i>At a Glance</i>	Mission
RICHARD BLUMENTHAL, <i>Attorney General</i> <i>Established – 1897</i> <i>Statutory authority – CGS Sections 3-124 to 3-131</i> <i>Central office – 55 Elm Street, Hartford, CT 06106</i> <i>Average number of full-time employees - 337</i> <i>Recurring General Fund operating expenses-\$27.9 million</i> <i>Revenues generated - \$592,085,377</i>	<i>Among the critical missions of this office are to represent and advocate the interest of the state and its citizens as vigorously as possible, to ensure that state government acts within the letter and spirit of the law, that public resources are protected for present and future generations, that the quality of life of all our citizens is preserved and enhanced, and that the rights of our most vulnerable citizens are safeguarded.</i>

Statutory Responsibility

The Attorney General is the chief legal officer of the state. The Attorney General's Office serves as legal counsel to all state agencies. The Connecticut Constitution and Connecticut statutes authorize the Attorney General to represent the people of the State of Connecticut to protect the public interest.

Revenue Achieved by the Office of the Attorney General

During the 2005-2006 fiscal year: \$592,085,377

A. Revenue Generated for General Fund

Tobacco Settlement Fund Collections	\$ 89,400,000
Restitution from state contracting corruption	\$ 1,000,000
State Child Support Collections	\$ 44,117,041
Tax Collection	\$ 6,786,321
Health Care Fraud Recovery	\$ 3,663,605
Antitrust Restitution to State Agencies	\$ 1,781,255
Penalties for Environmental Violations	\$ 1,683,710
Antitrust Civil Penalties	\$ 23,423,653
Department of Social Services	\$ 2,005,165
Department of Administrative Services	\$ 6,594,641
Consumer Protection Penalties & Fees	\$ 312,340
Miscellaneous Collections	\$ 2,003,079
Treasurer	\$ <u>566,616</u>
Total Revenue for State's General Fund	\$183,337,426

B. Revenue Generated for Special Funds

John Dempsey Hospital	\$ 143,202
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Second Injury Fund	\$ 45,252
Workers' Comp re State Employees	\$ 1,326,478
Unpaid Wage and Unemployment Tax	\$ <u>1,671,604</u>
Total Revenue for Special Funds	\$ 3,186,536

C. Revenue Awarded or Paid to Individuals & Businesses

Consumer Protection Restitution	\$ 3,005,030
Antitrust Consumer Restitution	\$177,934,874
Environmental Remediation	\$ 1,425,739
Charitable Trusts & Funds Recovered or Preserved for Charitable Purposes	\$ 27,900,000
Consumer Health Insurance Restitution	\$ 656,035
Renters' Security Deposits	\$ 18,298
State Child Support Collections to Connecticut Families	\$194,197,355
Restitution from Home Improvement Contractors	\$ <u>424,084</u>
Total Revenue Generated for Individuals & Businesses	\$ <u>405,561,415</u>
TOTAL REVENUE ACHIEVED	\$592,085,377

Public Service Provided by the Office of the Attorney General

The Office of the Attorney General is divided into 14 departments, each designated to represent agencies which provide particular categories of service to State residents. The Attorney General also participates in the legislative process, maintains an active communication with citizens and investigates, in conjunction with the State Auditors, Whistleblower complaints. During fiscal year 2005-2006 the office generated approximately \$588,098,841 million in revenue for the general fund, special state funds and for consumers. The overall work completed by this office in fiscal year 2005-2006 is summarized as follows:

Court cases completed	22,255
Court cases pending	22,558
Legal documents	
Examined	5,270
Administrative	
Proceedings	5,872
Appeals completed	112
Appeals pending	245
Formal opinions issued	32

Legislation

The Attorney General was successful in obtaining passage of legislation to make it illegal to provide minors with alcohol on private property unless the person was the minor's parent or was participating in a religious ceremony. In addition, the legislature approved legislation advocated by the Attorney General to establish an electronic monitoring system for prescription controlled substances, to enhance consumer disclosure of information concerning prepaid funeral contracts, to require public disclosure of hospital based infections, to create civil and criminal penalties for phishing and stealing of a musician's public persona, and to authorize civil enforcement actions by the Attorney General against violations of open space or conservation easement restrictions.

The legislature also gave final passage to legislation recommended by the Trafficking in Humans Task Force, that the Attorney General helped draft, establishing civil and criminal penalties for those who traffic in women and children for the purposes of prostitution or slave labor.

Health Care Fraud/Whistleblower

The Healthcare Fraud/Whistleblower/Health Insurance Advocacy Department had another important, busy and successful year. The Whistleblower Unit recovered \$1,000,000 stemming from its investigation and settlement of its corruption case against William Tomasso and Peter Ellef and several companies affiliated with them. We are also continuing to prosecute our suit against a former high ranking official in the Connecticut State Police for his failure to pay appropriately for housing provided by the State.

One Whistleblower investigation found that there were no written, uniform policies and procedures for allocating residence hall space to students at Central Connecticut State University which may have contributed to some students being denied on-campus housing. Another investigation detailed the misconduct of a high ranking official at the Department of Children and Families who was later dismissed from state service.

The Health Care Advocacy Unit has continued to assist patients and their doctors by resolving disputes with managed care. The larger issues arising during fiscal year 2006 have been denials of coverage for medically necessary care and retroactive terminations of individual health care policies. The Health Care Advocacy Unit continues to have great success in achieving favorable coverage determinations for consumers who require life-saving treatments such as stem cell transplants and has helped patients obtain direct assistance from companies

that manufacture the drugs they require. The Health Care Advocacy Unit has continued to work closely with the Child Advocate over the past fiscal year to ensure that children in this state receive the health care they require. It also helped consumers recover over one million dollars derived from illegally billed services and improperly denied claims.

The Health Care Fraud Unit recovered over \$3.6 million dollars, bringing the Unit's total recoveries to more than \$50 million in nine years. The majority of the dollars recovered this year came from settlements involving the pharmaceutical and residential care industries. One case of particular note involved the owners of two residential care facilities who billed the State for time they actually spent at dog shows and on vacations. They agreed to suspensions from Department of Social Services' programs for periods ranging from three to ten years and to reimburse the State \$1.2 million.

In addition, the Connecticut Superior Court upheld a statement of charges of fraud and abuse against a medical oxygen provider, suspending the company and owner for five years and ordering approximately \$200,000 to be paid in restitution.

The Department also continued to prosecute suits against medical providers who were illegally billing Medicaid and commercially insured patients.

Antitrust

The Antitrust Department's primary responsibility is to administer and enforce the Connecticut Antitrust Act, and has authority to enforce major provisions of the federal antitrust laws as well. The Department also relies on other federal and state laws, including the Connecticut Unfair Trade Practices Act, to ensure the Attorney General's overall responsibility to maintain open and competitive markets in Connecticut. Utilizing these statutes, the Department investigates and prosecutes antitrust and other competition-related actions on behalf of consumers, businesses and governmental units. In addition, this Department provides advice and counsel on proposed legislation and various issues regarding competition policy. In the past few years, the Attorney General served as the chair of the Antitrust Committee of the National Association of Attorneys General and remains active within that organization. Over the past year the Department has been extremely busy - - and successful - - in obtaining significant restitution for injured consumers, including state agencies, small businesses and individuals, and collected a record amount of penalties for violations of Connecticut law. The Department was also successful in obtaining a significant administrative victory from the U.S. Food and Drug Administration ("FDA") that will enhance the safety labeling of an important cancer treatment for patients with multiple myeloma.

Building on its success from the previous fiscal year, the Department continued its emphasis on investigating and prosecuting anticompetitive and illegal practices engaged in by insurance carriers and brokers. The practices at issue: bid rigging, steering of business to preferred insurers in return for lucrative undisclosed compensation, and other anticompetitive and illegal behavior, has cost Connecticut citizens - - both individuals and corporations, as well as Connecticut municipalities and state agencies - - in the form of higher premiums for their insurance. The work of the Attorney General's Antitrust Department in the past year resulted in significant restitution to Connecticut's consumers and record amounts of penalties collected for willful violations of Connecticut law.

In August, 2005, the Attorney General entered into a \$30 million settlement with Hilb, Rogal and Hobb, ("HRH") the nation's eighth largest insurance broker, for engaging in a scheme to surreptitiously steer its clients to certain preferred insurers in exchange for hidden commissions. In addition, HRH agreed to pay a fine of \$250,000 to the state. The agreement came after an investigation that proved that HRH illegally consolidated much of its book of business with three preferred insurers in return for larger hidden compensation. In agreeing to the settlement, HRH agreed to institute a series of business reforms, including a first of its kind "Customer Bill

of Rights” that provides HRH’s clients with unprecedented disclosure regarding the nature of its financial agreements with insurers and the particulars of the client’s purchase of insurance. Coming shortly on the heels of the HRH settlement, the Attorney General filed an amended complaint against Marsh & McLennan (“Marsh”) in late September, 2006. The amended complaint alleged that Marsh orchestrated a wide-ranging bid rigging and insurance steering scheme among some of the largest insurance companies in the United States, including Zurich American Insurance Company (“Zurich”), ACE, Limited (“ACE”), Liberty Mutual (“Liberty”) and others. The complaint seeks restitution for the thousands of Connecticut consumers harmed by Marsh and its co-conspirators illegal conduct, as well as penalties.

In 2006, the Attorney General further stepped up his efforts to police the insurance industry, which resulted in the announcement of a series of settlements and lawsuits. In March, 2006, the Attorney General entered into a \$153 million national settlement with Zurich for its role in an illegal bid rigging conspiracy with Marsh. The settlement resolved allegations that Zurich rigged bids and secretly paid insurance brokers hundreds of millions of dollars in exchange for steering business to Zurich. In addition to the restitution, Zurich agreed to pay a \$13 million penalty to the state, and agreed to implement a number of business reforms to ensure the conduct would never happen again. Finally, Zurich agreed to refrain from paying any undisclosed contingent compensation to insurance brokers for a certain period of time. Soon after the announcement of the Zurich settlement, the Attorney General settled with another of Marsh’s co-conspirators, this time ACE. This settlement called for ACE to establish a \$40 million fund to reimburse clients, including a number of Connecticut consumers, for its role in the illegal bid rigging and steering schemes it engaged in with Marsh and other insurance carriers and brokers. In addition, ACE will implement business reforms similar to those agreed to by Zurich, and ACE agreed to pay Connecticut an \$8 million penalty for engaging in the illegal and willful conduct. On May 5, 2006, the Attorney General filed a lawsuit against Liberty for its role in rigging bids and paying undisclosed and secret kickbacks to Marsh and other insurance brokers for the placement of excess casualty insurance. The alleged scheme, which began in the mid-1990s, raised insurance costs not only for consumers whose premiums were set by rigged bids, but for all consumers because the entire market was tainted by the artificially inflated prices. The complaint seeks restitution, penalties and other equitable relief.

On May 10, 2006, the Attorney General opened a new front in his two-year insurance industry investigation by suing and simultaneously settling with The Hartford Financial Services Group (“Hartford”) for its role in a scheme to pay millions of dollars of secret kickbacks to brokers who agreed to steer lucrative contracts for single premium group annuities used by employer-sponsored pension programs. The one-year investigation led by the Attorney General revealed that, since the late-1990s, Hartford entered into a number of secret agreements with the largest group annuity brokers in the country. The agreements called for the brokers to provide Hartford with inside competitive information, enhanced profit margins, and first and last looks on bidding in return for millions of dollars in secret kickbacks ultimately priced into the pension plans’ premiums. The settlement resulted in Hartford paying restitution of \$16.1 million as well as a penalty to the state of \$1.95 million. In addition, Hartford agreed to a number of business reforms to ensure proper disclosure of its financial arrangements and agreed to refrain paying any contingent compensation to any broker for the sale of group annuities for three years. The Attorney General’s group annuity investigation is continuing.

In addition to the above settlements and enforcement actions, the Attorney General also entered into a settlement with Women’s Health U.S.A., where the company, a health care management company that oversees the purchase of medical malpractice insurance for the largest group of OB/GYNs in the country, agreed to reimburse the group \$198,000 for improper payments it collected from insurers and brokers in exchange for their getting and keeping the OB/GYN group’s malpractice insurance business. In a similar but unrelated investigation, the Attorney General resolved allegations that R.C. Knox (“Knox”) received over \$400,000 in undisclosed compensation in return for its placement of insurance business for state entities, including the State Insurance and Risk Management Board. The state’s contracts with Knox called for the company to be reimbursed on a fee basis with the state, and did not allow for Knox’s receipt of any other compensation in connection with its placement of state business. As part of its agreement with the Attorney General, Knox paid the state an

additional \$339,746 in interest and agreed to refrain from accepting any contingent compensation for any insurance placements made on behalf of the state.

Another high priority of the Attorney General is combating the continuing high cost of prescription drugs. In March, 2003 the Attorney General filed lawsuits against several pharmaceutical manufacturers for allegedly manipulating the prices consumers and the Connecticut Medical Assistance Program ("CMAP") paid for certain drugs. In July, 2005, the Attorney General resolved the litigation against Dey, Inc. by entering into a \$2.5 million settlement with the company for its role in illegally manipulating the cost of inhalant drugs, *ie*, those used to treat certain respiratory conditions. The settlement involved a payment to the state of \$1.7 million and a donation of \$800,000 of pharmaceuticals.

The Department continues to investigate a number of drug manufacturers suspected of marketing their drugs for off-label uses. While doctors may prescribe drugs for off-label uses, it is illegal for a drug company to market a drug for a use not approved by the FDA. Off-label marketing, however, can result in consumers paying higher prices if the unapproved use results in unintended health consequences or if it has a less than efficacious effect. Among the drug manufacturers whose products are under investigation by the Attorney General are Cephalon, for its proprietary drugs Actiq, Gabitril and Provigil. In addition, in May, 2005, the Attorney General submitted a Citizen Petition to the FDA demanding that the agency strengthen warnings to doctors and patients about the risk of potentially fatal blood clots when the drug Thalomid (thalidomide) is used off-label. The petition also asked the FDA to consider price controls on Thalomid because its skyrocketing price – up at least 105% since 2003 – may force patients to buy the drug overseas or on the Internet, thus bypassing stringent controls put in place to protect patients from serious health consequences associated with the drug. In May, 2006, the FDA granted portions of the petition - - the first time the FDA has ever granted a petition submitted by an Attorney General that requested stronger safety warnings.

Consumer Protection Department

The focus of this Department is consumer protection through counsel and representation of the Department of Consumer Protection; consumer education and complaint mediation; investigations; written comment to state and federal agencies; and litigation under various state and federal laws, with a major reliance on the Connecticut Unfair Trade Practices Act (CUTPA).

As part of his core mission, the Attorney General continues his efforts to educate and mediate matters on behalf of consumers on how to avoid consumer scams. Indeed, our Consumer Assistance Unit (CAU) and our 15 senior volunteer advocates responded to 4693 consumer complaints during this fiscal year. Over \$696,368.61 was refunded or credited to Connecticut consumers due to the mediation efforts of the department.

We filed suit against Trilegiant Corporation and TRL Group who operate and market 18 membership buying club programs to consumers nationwide. Some of the programs marketed to consumers are AutoVantage, Buyers Advantage, Complete Home, Health Saver, Travelers Advantage, Privacy Advantage and Shoppers Advantage. Consumers are often signed up for a trial membership, billed for membership fees, and continually re-enrolled. Membership fees ranged anywhere from \$59.95 annually to \$89.95 annually. The enrollment forms are usually disguised as complimentary checks for nominal amounts, Internet surveys, and telephone solicitations. The fees are charged to their credit cards one to three months later after a "free" trial period has ended. Our office has received approximately 100 complaints from Connecticut residents. Our suit alleges violations of CUTPA based on the deceptive marketing of the free trial period, violation of the trial offer statute and deceptive representations regarding consumers' cancellation rights.

We petitioned and were granted permission to file an amicus brief in the Supreme Court on Small v. Going Forward, Inc. involving a car dealer who charged a consumer \$299 as a conveyance fee as part of the retail purchase of an automobile. The consumer alleged that the fee is excessive in violation of Conn. Gen. Stat. § 16-

62(a) which permits dealers to charge "reasonable costs for processing all documentation and performing services related to the closing of a sale, including, but not limited to, the registration and transfer of ownership of the motor vehicle which is the subject of the sale." The dealer argues that the statute only regulates the disclosure of the fee, not the substantive amount. This is a significant consumer protection statute that affects not only these parties but all car sales in the state and this case presents a matter of first impression as to the interpretation of this statute. In our brief, we agree with the consumer.

We settled with eight different gasoline retailers, for a total value of \$39,376, after we found evidence of price gouging during the abnormal market conditions immediately following Hurricane Katrina. We alleged that these stations enjoyed excessive profits by raising their retail gasoline prices well beyond the amount properly attributable to additional wholesale costs or fees imposed on the retailers from that national disaster. The stations are required to forfeit the excess profits they made and to comply with laws prohibiting unconscionably excessive prices during abnormal market disruptions or anticipated disruptions.

We investigated and sued the Progressive and Nationwide Insurance Companies for negotiating releases from individuals suffering personal injuries within 15 days of the injury. Pursuant to a Stipulated Judgment, the companies agreed to pay the State \$150,000 and cease negotiating settlements of personal injury claims within fifteen calendar days of its insured's tortious act, in violation of General Statutes § 52-572a. Additionally, we required the Defendants to pay restitution to injured consumers.

We have been in negotiations with MySpace, a website frequented by minors, over the explicit images presented on the site and the accessibility of MySpace to sexually interested adults and sexual predators. MySpace has currently agreed to change some of its disclosures, to hire a new security officer that reports directly to MySpace's parent company, and to post a link to free software that parents can use to block their children's access to MySpace. We are currently in negotiations with MySpace regarding further changes to protect children from the dangers they are unknowingly exposed to on these Internet sites.

As a result of an investigation by our office, on April 13, 2006, Delta Dental Insurance Company entered into an Assurance of Voluntary Compliance ("AVC") with the Department of Consumer Protection. Our investigation began after we received a complaint from a Connecticut dentist that Delta Dental was mailing Connecticut AARP members unsolicited offers regarding its dental plans, which featured a "Coverage Chart" that was misleading in terms of the coverage percentage amounts for its services. We negotiated an AVC that requires Delta Dental to refrain from using "Coverage Charts" similar to the one that was subject of our investigation and to provide full and complete disclosure, in a clear and conspicuous manner, of all material terms that relate to the coverage amounts for all of its plans and networks. Also, Delta Dental agreed to provide restitution to all Connecticut consumers who enrolled with Delta Dental in response to its misleading offer.

The Attorney General settled with Time Magazine for allegedly using deceptive subscription solicitations crafted to look like bills or collection notices. Approximately 2,400 Connecticut consumers were involved and Time agreed to pay \$100,000 in restitution.

We finalized and entered an Assurance of Voluntary Compliance with Home Depot and GE Money Bank (formerly Monogram Credit Card Company of Georgia) regarding Home Depot's "no interest/no payment" credit program. Previously, Home Depot and Monogram had advertised that certain credit programs would require "no payment" by consumers for a specified period of time. However, despite the representation, Home Depot and Monogram set up an accounting system that automatically allocated consumer payments to the "no interest" balances rather than allocating the payments to the interest accruing balances. As a result, consumers unwittingly paid excess interest to Home Depot and Monogram that they did not, in fact, owe. The companies ceased the practice as a result of the investigation, and the Assurance provides prohibitions on the companies from engaging in the same conduct. As a result of the investigation, Home Depot and Monogram were forced to pay back over \$300,000 to Connecticut consumers, and pay \$350,000 to the State of Connecticut.

In April, pursuant to a Stipulated Judgment, the defendants GRZ, LLC, A Home Connection, LLC, and Mortgage Supercenter, Inc., and the companies' owners, Michael Grady, Joel Rosario and Robert Zappone, agreed to pay the State \$750,000 as part of a settlement of the State's action against them. The settlement also included terms preventing any future misconduct in the investment, rehabilitation and brokering of residential real estate, and in the administration of mortgage brokering services. The State had alleged that Grady, Rosario and Zappone operated a one-stop shopping predatory lending scheme. In particular, the state alleged the following: through their investment outfit, GRZ, LLC, Grady, Rosario and Zappone "flipped" distressed properties in and around Waterbury. They purchased the properties often at foreclosure sales and then paid contractors, including some without proper credentials or training, to superficially patch up the houses. Through their advertisements they targeted non-English speakers, first time homebuyers and people with credit problems. Once they lured such susceptible consumers onto their premises, Mortgage Supercenter, Inc., processed the loan pre-approvals, and A Home Connection, LLC, brokered the purchase of the cosmetically repaired homes at outrageously inflated prices after misrepresenting the conditions of the properties to the buyers and either convincing the buyers to forego home inspections or to have the home inspections performed by inspectors Home Connection knew would not jeopardize the transactions. Grady, Rosario and Zappone often manipulated the home financing engaging in such underhanded mortgage brokering practices as fraudulently transferring money to create an appearance that the buyers had sufficient assets to qualify for the purchase money mortgages, falsifying loan applications, and retaining property appraisers who would inflate their appraisals. They convinced buyers to accept expensive mortgage loans with unfavorable terms and, as a result, the buyers were saddled with monthly mortgage payments they could not afford, especially when combined with the costs of repairing or remediating the material property defects that had been concealed. Many of the buyers eventually filed for bankruptcy and lost their homes to foreclosure. The payments that the defendants will make to the State pursuant to the settlement agreement will go primarily to pay back these aggrieved consumers.

In addition, the Office remains active in criminally prosecuting unscrupulous home improvement contractors and unlicensed real estate brokers collecting \$424,084.24 in court-ordered restitution to victims.

The Department also continued its representation of the Attorney General before the Department of Public Utility Control (DPUC). The highlights from the utility/energy consumer protection unit for 2005-2006 reflect the evolution of many energy issues from the state to the federal level. We are now involved in many cases at the FERC. Perhaps the most prominent case from the past year is the Federal "LICAP" proceeding involving a proposal to impose a draconian new market regime on Connecticut and New England that threatens to cost consumers \$600 million per year. This case remains pending at FERC.

We continue to actively participate in DPUC rate cases, franchise renewals and other such proceedings. We also were an active participant in the Siting Council's consideration of a 69 mile, 345 kV transmission line from Middletown to Norwalk, encouraging the Siting Council to assiduously protect the environment and citizens along the transmission line right of way and to reduce the electromagnetic radiation the lines create. In addition, we are actively participating in efforts to encourage the legislature to adopt legislation that will allow the state to re-assert control over its electric energy future by adopting a windfall profits tax on electric generating companies and creating a Connecticut Energy Authority to stop the upward spiraling cost of electricity.

Child Protection Department

The Attorney General's Child Protection Department represents the Connecticut Department of Children and Families in state and federal court. The mission of the Child Protection Department is vital to the security of Connecticut's children – the department prosecutes child abuse and neglect matters in the fifteen juvenile courts across the state. The 40 attorneys in this department aggressively protect children who have been neglected or abused by their parents and work closely with the court and DCF to expedite permanency for these children.

The volume of cases is very high, with over 5000 cases pending at any one time. Each case requires multiple court hearings, trials and conferences, and the child protection attorneys spend most of their time in court on these matters. A large number of these cases are appealed; the appeals are also handled by the Child Protection Department. The department also defends DCF in administrative appeals, as well as other litigation.

This past year, this department handled a number of important cases before the Appellate and Supreme Court concerning child protection issues. In *In re Allison G.*, 276 Conn. 146 (2005), the Supreme Court agreed with this office that the type of adjudication that results from a neglect petition is important and that a judge conducting a settlement conference cannot unilaterally determine that a sexually abused child can be adjudicated “uncared for” when the facts demonstrate that the child was neglected.

Another important decision dismissed a mother's appeal from a judgment adjudicating her children neglected because the mother had consented to the termination of her parental rights. *In re Claudia F.*, 93 Conn. App. 343 (2006).

In *In re Nicholas R.*, 92 Conn. App. 316 (2005), the Appellate Court affirmed an emergency removal under an order of temporary custody, finding no merit in the parents’ claim that they had been forced to consent to having their child medically evaluated.

Further in *In re Heather L.*, 274 Conn. 174 (2005), the Appellate Court determined that a judge’s familiarity with a father because the judge had handled a prior proceeding involving the father did not disqualify the judge from hearing a subsequent case concerning the family.

In federal court, the Department was successful in defending a civil rights action filed by a 18-year old man, claiming that DCF had deprived him of a hearing to contest the services he was receiving. *Joseph L. v. DCF*, 2005 U.S. App. LEXIS 28704. The Court found that the plaintiff was no longer under DCF’s supervision and was receiving the services he sought.

Environmental Department

This year, as in the past several years, we continued our battle against Midwest power plants for their violations of the Clean Air Act which impact the quality of the air the citizens of Connecticut breathe. Also, we continued to work to defeat numerous attempts by the U.S. Environmental Protection Agency to weaken federal regulations enacted to limit emissions of harmful substances into the atmosphere.

Our litigation against American Electric Power Company, Allegheny Energy and Cinergy for Clean Air Act violations from their coal fired plants continue in the United States District Courts in Pennsylvania, Ohio, West Virginia, and Indiana.

This year we successfully blocked EPA from making changes to the New Source Review Rule. We joined with a coalition of state attorneys general to challenge a rule proposed by EPA to establish a “cap and trade” program for the emissions of mercury, a rule that if promulgated will have a significant negative impact on the environment. We were also instrumental in the promulgation of state air regulations requiring reduced carbon dioxide emissions from motor vehicles (the low emission vehicle regulations).

We successfully assisted the town of Hebron in defending an attack of its ordinance banning the use of outdoor wood burning furnaces under the joint enforcement provision of the newly enacted Conn. Gen. Stat. § 22a-174k.

We also continued our efforts to protect the waters of the state by enforcing the federal and state Clean Water Acts. The Connecticut Supreme Court affirmed the trial court's decision in *Rocque v. Light Sources, Inc.*, requiring the defendant to remediate mercury contamination in an extensive wetlands ecosystem and to pay an \$800,000 penalty. We instituted suit against the *Metropolitan District Commission* (MDC) and resolved that action by way of a Consent Decree which requires the MDC to make major repairs and improvements to sanitary sewer systems in its member towns. The MDC was also required to pay a civil penalty of \$850,000. We sued *StanChem* for wastewater discharge violations and received a \$450,000 penalty as well as substantial injunctive relief. A suit against *Cintas* for water and hazardous waste violations also resulted in a \$450,000 penalty. We continue our efforts to protect Long Island Sound against environmentally destructive activities such as those proposed by *Islander East* in the Thimble Islands in Branford.

In our representation of the Department of Agriculture, we continued to save abused or neglected animals, including live stock as well as domestic animals. In the case of *State of Connecticut v. 13 Horses*, we, unfortunately, had to obtain our first emergency court order allowing the humane destruction of a severely neglected horse. The number of these types of cases referred by the Department of Agriculture's Animal Control Division has increased and more of our time is devoted to the protection of animals.

We also continue to protect and enforce development rights acquired by the Department of Agriculture through its Farmland Preservation Program. In the *Landis* litigation, we continue to fight the transformation of a farm into a golf course. The Department of Agriculture had paid a now deceased farmer to acquire the development rights to preserve the farm. When his heirs disputed the limitations contained in the farmland use restrictions, we obtained a temporary injunction to stop the planned golf course development and to enforce the state's rights to preserve the farmland state taxpayers paid for.

Also this year, the Appellate Court upheld the trial court's decision in *Shirley Ferris, Commissioner of Agriculture v. Anton Faford*, a case in which we proved that a revoked will had been fraudulently probated by a relative to prevent the conveyance of farmland development rights to the state under a later executed will.

Additionally, the Connecticut Supreme Court's ruling this year in *Rocque v. Mellon* clarified the Commissioner of Environmental Protection's standing under the Connecticut Environmental Protection Act to claim that clear-cutting of trees constituted unreasonable pollution.

In the area of enforcement of the solid waste laws, the office continued its successful efforts in prosecuting vehicle forfeiture cases where vehicles used in the illegal dumping of solid waste were seized by municipal police departments. This year polluters caught dumping solid waste along I-91 in East Hartford and in two locations in Milford had their vehicles forfeited to the towns where the illegal dumping occurred.

Our representation of the Department of Environmental Protection in bankruptcy proceedings continues to prevent polluters from avoiding their environmental liability by abandoning polluted property through the Bankruptcy Court. This year, our claims in bankruptcy proceedings against *Raymark Industries, Inc.* and *Raytech* resulted in a \$700,000 payment to the DEP.

We brought suit against *Montville Commons*, a shopping center in Montville, stopping its violations of several environmental permit requirements. Mudslides caused by activities at the site of the development and unusually heavy rains endangered the lives and property of residents living near the project.

In addition to all of the above, we continue to provide a full range of legal services to both DEP and DOA including contract review, providing opinions, the defense of Claims Commissioner matters, legal advice and counsel.

Finance and Public Utilities Department

The Finance and Public Utilities Department provides legal services to state agencies that regulate insurance, banking, securities, and public utilities, as well as the Department of Economic and Community Development, the Department of Revenue Services, and the Office of Policy and Management. Legal issues involving state regulation of the finance services industries form a major part of this department's work.

This office continues to combat predatory lending practices, in which consumers are often unknowingly enticed into purchasing high cost, high fee loans that they later cannot repay or refinance. As part of this ongoing effort, this office participated in a multi-state investigation of Ameriquest Mortgage Company and its affiliates relating to a variety of alleged predatory lending activities. As a result of this action, Ameriquest agreed to pay \$295 million in restitution to consumers nationwide. Approximately 3000 Connecticut consumers will share in that settlement. In addition to investigations and lawsuits of such broad scope, the department routinely assists individual consumers with complaints against banks and mortgage companies, often informally mediating a resolution of payment disputes and other mortgage issues.

Members of this department joined with the Antitrust Department in a wide ranging investigation of illegal compensation arrangements of insurance brokers and agents. This ongoing investigation has revealed large scale unlawful and unfair practices, including bid rigging, steering of business and conflicts of interest relating to the undisclosed compensation of brokers and agents. The investigation has resulted not only in substantial compensation for consumers, municipalities and state agencies, but has forced insurance companies, brokers, and agents to adopt reforms relating to broker and agent compensation and disclosure to customers.

This department is responsible for enforcement of the master settlement agreement between the states, including Connecticut, and various participating tobacco product manufacturers and related tobacco issues. In addition to ensuring that Connecticut receives the monetary payments it is owed by tobacco manufacturers, department staff has taken legal actions against tobacco companies that market their products to youth or engage in other unfair advertising practices.

This department also represents the Department of Public Utility Control and the Connecticut Siting Council in all legal matters at the state and federal level, including representing the State's interests in matters before the Federal Energy Regulatory Commission that have a great impact on the rates paid by Connecticut consumers. This office is actively involved in important issues such as the decommissioning of the Connecticut Yankee Atomic Plant, the storage of spent nuclear fuel, and the improvement of the electric transmission line infrastructure in Connecticut.

Child Support & Collections

The mission of the Collections/Child Support Department is to collect monies owed to the state and families and to secure and enforce support orders for the support of children. While a large number of the children for whose benefit support orders are obtained are public assistance recipients, the vast majority of cases initiated are brought on behalf of children who are not currently, and may have never received public assistance benefits. In the effort to obtain and enforce child support orders, Department attorneys initiate petitions seeking a determination of paternity as well as the entry of appropriate support orders pursuant to the Connecticut Child Support Guidelines in both the Superior Court proper and the family Support Magistrate Division of the Superior Court. Such activity is undertaken on behalf of the Department of Social Services/Bureau of Child Support Enforcement and the Support Enforcement Services division of the Judicial Branch.

The Child Support Department carries a very large caseload: In fiscal 2005-2006, more than 9,100 cases in all categories, nearly 7,000 of which were closed during the year. It is by reason of these activities that total

child support collections exceed 290 million dollars for the year, most of which is paid directly to Connecticut families.

Department attorneys were also engaged in a wide variety of litigation activities which secured total cash recoveries to the state in excess of 17 million dollars. In the single largest recovery of the fiscal year, a Department attorney secured a recovery of corporate income taxes in excess of 5.5 million dollars owed to the Department of Revenue Services in the *World Com* bankruptcy by establishing that the corporation had engaged in a fraudulent royalty scheme by which it would claim that a payment made to a subsidiary located in a state with a lower tax rate was a royalty deductible as an expense on its Connecticut return when the payment did not, in fact, constitute a royalty due to the subsidiary. In the *Heating Oil Partners* bankruptcy, another Department attorney secured recovery of approximately \$540,000.00 in sales and excise taxes owed to DRS and continues to monitor the bankruptcy proceeding to ensure that consumers who made lump sum advance payments to the bankrupt organization for heating oil receive maximum value for their payments. Also, in the matter of the *City of Meriden v. Janofsky, et. al.*, a Department attorney successfully asked the Superior Court to sell real property at public auction which sale resulted in the recovery of tax revenues owed to DRS in excess of \$125,000.00.

A major component of the collection effort centers on recovery of public assistance benefits from persons now able to repay benefits received by them in the past. In the *Estate of Chernoblyska*, a Department attorney recovered \$1.75 million in accident-related Medicaid benefits. The Department also succeeded in obtaining changes in a proposed Special Needs Trust that were very favorable to the State. In the *Estate of Tyhisia Cobb*, the Department secured payment of accident-related Medicaid benefits in excess of \$288,000.00 and recovered \$124,000.00 from the *Estate of Saroeth Khim* and \$116,000.00 from the *Estate of Virgil McKay*, both recoveries reimbursing State taxpayers for accident-related Medicaid benefits. Finally, in the *Estate of Jordan Morton*, the Department recovered \$475,000.00 and in the *Estate of Jimmy Doucette*, a case in which the defense alleged that the State's claim was wholly barred, \$140,000.00 was collected.

Employment Rights

This department defends state agencies and state officials in employment related litigation and administrative complaints and provides legal advice and guidance to state agencies on employment issues. We are currently defending the state in approximately 180 employment cases in the state and federal courts, as well as more than 250 complaints before the Connecticut Commission on Human Rights and Opportunities and the Equal Employment Opportunities Commission.

During the past year, the department successfully defended state agencies in a number of significant cases. In *Piscottano v Murphy*, we handled an appeal of a federal court decision upholding the Department of Correction's right to take disciplinary action taken against correction officers who are members of or associated with the Outlaws Motorcycle Club, an organization that law enforcement agencies have deemed to be a criminal enterprise. We are awaiting a ruling from the Court of Appeals for the Second Circuit in that matter.

In addition, we prevailed in numerous cases in the state and federal courts. Significantly, we were able to obtain rulings favorable to the state in a number of cases, eliminating the need for trials in those cases. We also received jury verdicts in favor of the state after trials in two other cases and prevailed in a public hearing before CHRO. In several other cases, we were able to achieved settlements on terms that were favorable to the state, saving the taxpayers millions of dollars. We routinely appear on behalf of State agencies before the Commission on Human Rights and Opportunities at fact-finding sessions and public hearings.

We continued to assist the Department of Correction in implementing the terms of a stipulated agreement that made improvements in the manner in which the DOC deals with sexual harassment complaints made by its employees.

We continued to provide legal advice and counsel to state agencies on a variety of employment matters. During the past year, we participated in several training sessions, sponsored by the Permanent Commission on the Status of Women, to assist employees who appear before the Commission on Human Rights and Opportunities and the Equal Employment Opportunities Commission. In addition, we provided training to new managers through a program provided by the Department of Administrative Services.

Public Safety and Special Revenue Department

This department represents the Department of Public Safety, including the Division of State Police, the Division of Fire, Emergency and Building Services; the Military Department; the Department of Correction; the Department of Emergency Management and Homeland Security; the Division of Special Revenue and the Department of Consumer Protection, Liquor Control Division. It also provides legal services and representation to a number of associated boards, commissions and agencies, including the Division of Criminal Justice, the Division of Public Defender Services, the Office of Adult Probation, the Governor's Office (Interstate Extradition), the Statewide Emergency 9-1-1 Commission, the State Codes and Standards Committee, the Crane Operator's Examining Board, the Board of Firearms Permit Examiners, the Commission on Fire Prevention and Control, the Board of Pardons and Paroles, Police Officer Standards and Training Council, the State Marshal Commission, Office of Victim Services and the Gaming Policy Board.

DEPARTMENT OF CORRECTION/BOARD OF PARDONS AND PAROLES

Although we provide legal services to and represent a variety of state functions in the area of public safety, criminal justice and special revenue, a substantial portion of our work is in defense of the state in lawsuits brought by and on behalf of prisoners. We continue to defend a large number of lawsuits challenging conditions of confinement in state correctional facilities and the administration of community programs. These lawsuits collectively seek millions of dollars in money damages and seek to challenge and restrict the statutory authority and discretion of the Department of Correction to properly run the state's prisons. Our efforts in defense of these cases save the taxpayers of the State of Connecticut millions of dollars in claimed damages and preserve the state's authority in administering a growing prison population. In addition, this department has assisted in the collection from prisoners of thousands of dollars in costs of incarceration.

We also defend numerous habeas court challenges involving conditions of confinement of prisoners and the application of the "good time" statutes to multiple sentences. While these challenges do not ordinarily involve money damages, they often involve complex legal issues which can have a substantial impact on state funding.

This department negotiated a settlement agreement in Lorenzo Foreman, et al. v. State of Connecticut, et al. The case involves a class action brought on behalf of persons arrested for non-violent, non-drug related misdemeanor offenses or any civil contempt, who were strip searched without reasonable suspicion, when admitted to the New Haven Community Correctional Center between January 12, 1998 and January 21, 2001. The settlement is awaiting approval of the court. A fairness hearing, in the United States District Court, is scheduled for September 2006.

DEPARTMENT OF PUBLIC SAFETY

We have the responsibility for the defense and representation of almost all the lawsuits seeking money damages against the State Police. In the past year, we successfully litigated a number of cases in federal and state courts and received favorable decisions in many of those cases.

We continue to represent the Department of Public Safety in administrative appeals involving the State Building Code and Fire Safety Code. We have been active in litigating issues involving the sale of illegal fireworks in Connecticut. We have also reviewed contracts and regulations for the department.

DIVISION OF SPECIAL REVENUE

During the past year, we continued to provide legal advice and representation to the Division of Special Revenue regarding a variety of complex and significant issues related to legalized gambling, including gambling at the state's two casinos. We continue to monitor permissible activities under the Gaming Compacts with the Mohegan Tribe and the Mashantucket Pequot Tribe.

LIQUOR CONTROL DIVISION

During the past year, we provided the Liquor Control Division with advice on a number of legal issues concerning enforcement of the liquor law. In addition, we have handled a number of administrative appeals from decisions of the Liquor Control Division.

OFFICE OF ADULT PROBATION

We are currently handling two significant matters involving the Office of Adult Probation. Both of these matters involve possible liability of the State from wrongful deaths caused by probationers under the supervision of the Office of Adult Probation.

Transportation, Housing and Public Works Department

The Transportation Department of the Office of the Attorney General provides representation for the following state agencies: Department of Transportation ("DOT"); Department of Public Works ("DPW"); Department of Administrative Services ("DAS"); Department of Motor Vehicles ("DMV"); Department of Information Technology ("DOIT"); Department of Economic and Community Development, Housing Matters ("DECD"); the Department of Environmental Protection ("DEP") real property matters, and the Connecticut Historical Commission. In addition, the Transportation Department provides representation for various occupational licensing boards within the Department of Consumer Protection ("DCP"). The representation of the foregoing state agencies/boards includes, but is not limited to, counseling and advice on legal issues, the prosecution or defense of lawsuits or claims in both federal and Connecticut courts, and before various administrative entities, including the defense of claims filed with the Office of the Claims Commissioner pursuant to Chapter 53 of the Connecticut General Statutes.

This past year this department has been consumed with our involvement in the continuing investigations of corruption in public bidding, solicitation of proposals, procurement, and contracting including the now completed convictions of Tomasso Bros. Inc. on DPW projects; Tunxis Management, a Tomasso entity regarding its property management contracts with DPW; DOT employees regarding the cold patch paving contracts; and the investigation of DOT's public transportation employees' mishandling of contracts at the Stamford and New Haven Train Stations.

As a result of the large number of public works projects undertaken by the State during any given year, and the broad scope and complexity of many of these projects, there is a continuing need for the attorneys in the Transportation Department to provide legal assistance to the DOT, DPW, DAS and all other state agencies including the Joint Committee on Legislative Management ("JCLM"), the administrative arm of the General Assembly, and the State Contracting Standards Board on public contracting issues. Other legal assistance is provided in the resolution of bid protests, the interpretation of contract language, and other problems that eventually arise during the course of large construction and statewide procurement projects.

Despite the best efforts of all involved, some construction problems simply cannot be resolved to the satisfaction of the parties and thus claims for money damages are made against the State. The attorneys in the Transportation Department assist agency personnel with early analysis and settlement negotiations in an attempt to quickly resolve outstanding disputes and minimize the potential adverse financial impact of such claims on the public treasury. Nevertheless, a certain number of claims, both legal and monetary end up in court or arbitration.

During the past fiscal year, this Department was successful in protecting the interests of the State and its taxpayers in several large complex litigation cases.

After a year of hearings in the arbitration of the White Oak claim on the Tomlinson Bridge, the arbitration panel issued its ruling in late December denying the entire \$90 million claim of White Oak and instead ordered White Oak to pay the State over \$1.1 million dollars. The award to DOT was confirmed by the Court; however, White Oak has filed a new Demand for Arbitration which DOT is seeking to enjoin. The \$50 million White Oak claim on DOT's reconstruction of the I-95 corridor, the Bridgeport Green segment, has been ongoing and the hearing portions of the arbitration will conclude this fall.

It is anticipated that the State will bring suit against contractors/designers/subcontractors to seek compensation for damages against the entities that constructed the UCONN Law Library and the York Correctional Facility – both DPW administered projects with serious construction problems.

The Department initiated a lawsuit against American Crushing & Recycling (AC&R) after one of their trucks crashed into several motor vehicles at the base of Avon Mountain causing multiple fatalities. We provided vital assistance to the court appointed receiver to preserve AC&R's trucking assets for the benefit of the victims.

The Department is also responsible for handling housing matters for the Department of Economic Control and Development as well as all employee housing matters throughout the state. In this regard, we have issued Notices to Quit to state employees as well as to non employees in state housing in order to ensure that the rental rates for those properties are based on their market value.

Our DOT representation also covers all matters relating to eminent domain and rights-of-way issues and surplus property divestitures; any issues as to properties and facilities including all I-95 and the Merritt Parkway facilities; aviation and ports; public transit; rails; the State Traffic Commission; Siting Council issues relating to the use of DOT's rights of way by transmission facilities; and all environmental matters, including permitting for salt shed and maintenance facilities located throughout the State.

This Department also represents both the Department of Environmental Protection ("DEP") and the Department of Agriculture ("Agriculture") in property matters. Of particular significance: the provision of legal services to the Department of Environmental Protection in connection with the procurement of conservation easements resulting in the dedication of thousands of acres to public recreation; the development of standard leases for the DEP in connection with State properties occupied by DEP employees; and the provision of legal advice on complex property law issues attendant to the creation of "water taxi" services linking the Cities of New London and Groton.

Our legal services to the DEP included real property transactions with a total value \$6,729,563. These services included 17 conveyances of real property, 3 hunting leases, 18 open space grant agreements, 24 conservation easements, and a total of 29 easements and other agreements.

In connection with our representation of Agriculture for its Farmland Preservation Program, this Department commenced an injunction action in the Superior Court, and obtained temporary injunctive relief to prevent farmland, on which the State holds Farmland Development Rights (Konieko Farm), from being converted

to a golf course. That litigation is ongoing. In addition, this Department represented the Department of Agriculture regarding a violation of farmland development rights restrictions held by the State on another farm (Blum Farm) which resulted in correction of that violation. The value of Agriculture transactions totaled \$1,624,359 which included the acquisition of Farmland Development Rights in two farms having a value of \$831,305.00, and 7 leases of facilities at the Connecticut Regional Market having a value of \$626,928.

Our representation of DPW also consists of construction matters as well as handling a large amount of leasing, property management, and siting issues. During the past year, we provided legal counsel and review of 16 leases, 9 lease-outs, 2 subleases; 2 license agreements, 100 contracts and 1 design/build contract for DPW. This is exclusive of DPW real estate transactions in the form of purchase and sale agreements, deeds and easements.

In addition to the noted construction contracting matters, the Transportation Department is deeply involved in various environmental matters associated with public works projects, roads and bridges projects, and other activities of our client agencies. A major continuing responsibility is to provide appropriate legal assistance and guidance to these agencies to ensure that there is compliance with applicable federal and state environmental laws in the planning of projects and the operation of state facilities. In particular, we assist these agencies in their efforts to comply with the requirements of the National Environmental Policy Act ("NEPA"), the Connecticut Environmental Policy Act ("CEPA") and other federal and Connecticut regulations that have been enacted to balance the need to develop our state economy with the need to protect the air, water and other natural resources of the state. In this regard, the Department helps the agencies prepare and obtain required environmental permits (e.g., wetland permits) from both Connecticut and federal regulatory agencies.

Special Litigation Department

This Department represents the Governor, the Judicial Branch, the General Assembly, the Secretary of the State, the Treasurer, the Comptroller, the Auditors of Public Accounts, the State Elections Enforcement Commission, the Office of State Ethics, the State Properties Review Board, the Judicial Review Council, the Judicial Selection Commission, the Office of Protection and Advocacy for Handicapped and Developmentally Disabled Persons, the Accountancy Board, the Office of the Child Advocate, the Office of the Victims Advocate, the Commission on Children, and the Latino and Puerto Rican Affairs Commission. In addition, through its Public Charities Unit, the Department protects the public interest in gifts, bequests and devises for charitable purposes; and in cooperation with the Department of Consumer Protection, administers and enforces state laws regulating charities and professional fundraisers who solicit from the public.

In the area of charitable trusts and gifts, the Department brought actions against several entities to ensure that charitable gifts were being used for the purposes for which they were given. In the area of charitable solicitations, the Public Charities Unit initiated and/or settled a number of significant cases involving misuse of funds solicited from the public.

The Department continues to monitor solicitations by charitable organizations, and provides information to members of the public to assist them in making informed decisions on charitable giving. Currently, 8,700 charities, and 78 professional fundraisers are registered with the state. Of the \$10.1 million donated to professional telephone solicitors for charitable organizations in 2004, only \$3.31 million, or 32.8 % of the total money collected, was actually turned over to the organizations to which the donors thought they were giving. The Department makes this information available to the public so individuals can make informed decisions on contributing to charities.

The Department also represents the interests of the people of the State in appeals by Indian groups from denials of tribal recognition by the Bureau of Indian Affairs ("BIA") in the United States Department of the

Interior and in litigation involving land claims brought by groups claiming Indian ancestry. The Department also provides advice and counsel to numerous state agencies regarding issues of Indian law.

The Department also has participated in litigation and various regulatory proceedings to prevent harm to Long Island Sound posed by a number of energy projects, including the Islander East natural gas pipeline and the Broadwater Gas Terminal. Additionally, the Department has been involved in several court and administrative proceedings related to nuclear safety issues regarding both the Millstone Power Station and the Indian Point Nuclear Facility located in Buchanan, New York, which is within eleven miles of Fairfield County.

The Department has assisted other departments in complex matters, including the Office's investigation of the Insurance industries broker's practices and associated litigation against national brokerage companies.

The Department has represented the State's interest in a number of important cases including: (1) In addition to providing legal advice and assistance to state officials in protecting the submarine base in New London, this Office brought a federal court action against the United States Secretary of the Department of Defense and the Base Realignment and Closure Commission to prohibit them from reorganizing the 103rd Fighter Wing of the Connecticut Air National Guard, without the Governor's consent, which would have resulted in the removal from the State of all of Connecticut's Air Force planes, leave Connecticut as the only state in the Nation without a single Air Force or Air National Guard aircraft assigned within its borders and deprive the State of valuable homeland security and civil emergency response resources. As a result of this lawsuit, the state and federal government have entered into an agreement that preserved the flying mission of the Air National Guard base and saved 400 jobs. (2) In the first of its kind in the Nation, the Office brought a federal court action on behalf of the State of Connecticut and the Legislature against the United States Secretary of the Department of Education to enforce express mandates of the No Child Left Behind Act which prohibit the federal government from imposing education requirements on the State without providing adequate funding to pay for them. (3) The Department defended an action seeking to declare Connecticut's marriage laws unconstitutional, and (4) Defended an action challenging a state statute banning smoking in bars, restaurants and other public places.

The Department plays a leading role in the preparation of appeals throughout the office. This year, the Department's attorneys briefed and argued a number of significant cases in the State Appellate Court, and the State Supreme Court, and the Second Circuit Court of Appeals, and other appellate courts, and filed briefs in the United States Supreme Court. The Department also operates a Moot Court program for attorneys in the Office, and plays an important role in the office's participation as amicus curiae in cases before the United States and Connecticut Supreme Court.

Health and Human Services Department

The Health and Education Department represents a myriad of state agencies which include the State Department of Education, Department of Mental Retardation, University of Connecticut, Central Connecticut State University System, and all other agencies that have an educational function. It also represents the Department of Social Services, Department of Mental Health and Addiction Services, Psychiatric Security Review Board, Department of Veterans' Affairs, Commission on Medical and Legal Investigations overseeing the Office of the Chief Medical Examiner, Department of Public Health, Office of Health Care Access, and the various health licensing boards.

Throughout the last fiscal year, the Department provided legal services to the Department of Public Health in its role as a health regulatory enforcement agency. This resulted in numerous actions being instituted on behalf of the Department against licensees to ensure that the quality standards set forth in the statutes and regulations were maintained.

In the Day Care area, there were many licensing actions which resulted in the collection of civil penalties and fines for operating without a license or for failing to maintain appropriate standards. We have assisted the Department of Public Health in investigating violations of standards with respect to the asbestos and lead regulations and have worked with the Department in obtaining consent orders from several towns. Two asbestos matters involved Regional School District #5 and the Ledyard Middle School in which civil penalties were paid and promises of compliance obtained.

In the past year, there were a number of nursing home receiverships. Currently, proceedings involving 3030 Park Fairfield and 3030 Park Health Systems brought on behalf of the Department of Social Services are ongoing in which the interests of the patients and the State need to be protected.

A very significant Supreme Court decision was received in the matter of Christopher R v. Commissioner, Department of Mental Retardation. This was the first occasion the State Supreme Court considered the requirements for eligibility for services from the Department of Mental Retardation. In its Decision, the Supreme Court recognized the Department of Mental Retardation may consider the overall testing history of an applicant to make a determination whether the applicant is, in fact, eligible for the services the agency provides.

The representation of the Department of Social Services resulted in a number of significant decisions which will serve as precedent in the future. In Leocata v. Commissioner of Social Services, a claim was brought based upon Title II of the Americans with Disabilities Act, seeking Medicaid coverage for the cost of Assisted Living Facility services. The court held that Assisted Living Facility services are not eligible for reimbursement under the Medicaid program or under the ADA. The decision was upheld by the Second Circuit in Leocata v. Wilson-Coker.

In the State Supreme Court, we prevailed in the case of Semerzakis v. Commissioner of Social Services upholding the Department's regulation assessing the need for orthodontia services. In the case of Sikand v. Wilson Coker, the Supreme Court upheld the Department's determination that transportation for a non-Medicaid service was not required to be paid for by Medicaid.

With respect to the mental health area, we represented the Psychiatric Security Review Board and the Department of Mental Health and Addiction Services in many actions. Of significance were Superior Court decisions that those providing reports to the PSRB were entitled to absolute immunity for the contents of their reports. The number of actions involving the PSRB and the Department has increased substantially from prior years and many of these actions involved challenges to policies of the Department and the Board with respect to the care afforded the patients at Connecticut Valley Hospital.

The number and extent of resources provided to the Protective Services of the Elderly of the Department of Social services also saw increases in the past year. The Department provided advice to the Department in many proceedings seeking to protect elderly citizens who were exploited or abused.

The Department provided invaluable service to the Connecticut State University in a multitude of areas. These services included counsel relating to risk management, ethics, First Amendment, Fourth Amendment, due process, FERPA, FOIA, Gramm-Leach-Bliley, DMCA, IT security issues, bid and contracting issues, real estate transactions (including leasing), facilities use, construction disputes, employment and labor issues, student and employee discrimination claims, student life and academic issues (both domestically and abroad), SEVIS, the Cleary Act, criminal background checks, admission and tuition issues, and immigration and visa issues. The Department assisted the System with the negotiation, preparation and revision of contracts, including, but not limited to, interagency agreements, program affiliation agreements (both domestic and international), grant agreements, IT and telecommunications agreements, leases and easements, and food service contracts. The Department provided counsel with respect to the development, revision and implementation of a variety of

policies, including policies relating to ethics, employee criminal background checks, information technology, disposition of surplus property and academic misconduct.

The heart of the representation provided to the University of Connecticut at its Storrs location is counseling senior personnel on the myriad of issues that arise. This includes proactive involvement in a variety of areas to lessen the risk of liability for the University, including personnel actions involving University employees. On a regular basis the Storrs Office reviews leases and contracts and all other types of legal documents. In addition to this service at Storrs, the members of the Department provide counsel to the various University branches located throughout the state. An example of the type of representation provided includes negotiation with the U.S. Attorney's Office with respect to the University's accounting for federal grants. When litigation occurs, the Department represents the University both before the Claims Commission and the various courts. Many of the issues that arise at the University include the application of the Student University Code and University Bylaws, Federal Education Rights, and the Connecticut Freedom of Information Act. The University Department of Athletics also presented issues that required our involvement and counsel.

With respect to the University of Connecticut Health Center, this past year has been an active one for our Department's representation. Our ongoing counseling relative to the day to day operations of an academic health center with a three-quarter of a billion dollar budget is challenging and varied. Over the past year we provided advice relative to the Health Center's expanding compliance program which required interpretations of both state and federal law. We are also actively involved in legal issues involving research, medical treatment, probate hearings relative to the John Dempsey Hospital's two locked psychiatric wards, lease and contract negotiations, and appearances at various administrative hearings, including the CHRO, Claims Commissioner and the Freedom of Information Commission. On the litigation front, we successfully defended a claim in federal court establishing that Health Center faculty members do not have a constitutionally protected property interest in a specific or fixed amount of research space.

As the foregoing illustrates, the Health & Education Department provides wide-ranging legal services to over 40 agencies. The Department works hard to maintain an excellent relationship with all these agencies and through proactive counseling is able to avoid unnecessary litigation.

Workers' Compensation Department

The Workers' Compensation and Labor Department represents the Treasurer as the Custodian of the Second Injury Fund, the Workers' Compensation Commission and the Department of Administrative Services in its capacity as the administrator of the state employees' workers' compensation program, as well as DAS Personnel, the Labor Department, the Office of Labor Relations, the Office of Claims Commissioner, the State Employees Retirement Commission, the Teachers' Retirement Board, and others. The department's worker's compensation staff represents the Second Injury Fund in cases involving potential liability of the Fund for workers' compensation benefits and for the State of Connecticut in contested workers' compensation claims filed by state employees. Our labor attorneys represent the Department of Labor in unemployment compensation appeals to the Superior Court and the Department of Labor's Wage Enforcement Division, collecting unpaid wages due to Connecticut employees. The department's workers' compensation attorneys and paralegals also spend significant time on third party tort-feasor cases that result in the recovery of money for both the state and the Fund, as well as handling a large number of appeals to the Compensation Review Board and to the Appellate and Supreme Courts.

During the past fiscal year, department attorneys and paralegals appeared for the Fund and the State in over 3600 hearings before workers' compensation commissioners and in well over 150 unemployment compensation cases in the Superior Court.

In addition, department attorneys and paralegals were responsible for recouping \$45,252.36 for the Second Injury Fund and \$878,997.55 for the State of Connecticut through third party interventions. This money represents a reimbursement to the State or Second Injury Fund of money which has been paid out in workers' compensation benefits for injuries caused by a third party. Finally, department attorneys were responsible for the collection of \$551,770.87 in unpaid wages for Connecticut employees. This recovery goes directly to the Connecticut employees whose employers failed to pay them in accordance with Connecticut's labor laws.

CHRO/Torts

The Torts/Civil Rights Department defends state agencies and employees in tort and tort-like civil rights actions, including high exposure personal injury and wrongful death actions. A substantial number of cases arise from alleged injuries at the state educational facilities, such as the vocational high schools and state colleges, and allegations involving children in the care of the Department of Children and Families ("DCF"). The origin of the remainder of cases is spread among many agencies, including the state mental health and mental retardation programs. Many of these cases seek large sums in damages from state coffers.

Department attorneys have saved the State millions of dollars by obtaining favorable judgments and settlements for the State in the courts and at the Claims Commission. In addition, in the past year we have obtained some important legal decisions. In Manifold v. Ragaglia (II), the Appellate Court recognized an immediate appeal could be taken from the trial court's failure to consider the statutory immunity granted to state employees by Conn. Gen. Stat. § 4-165. In Claim of Velasquez, a state vocational school was found not to have violated any standard of care in a case brought by a student injured by a lathe machine. In Bell v. Kirk, the trial court ruled that the parents of an adult patient who died did not have a clearly established right to maintain a claimed violation of the Fourteenth Amendment.

Affirmative Action

The Office of the Attorney General is firmly committed to equal employment opportunity. By the end of the fiscal year, 50 percent of the full-time attorney workforce consisted of women and minorities. Women and minorities comprised 64.6 percent of entry level attorneys and 42.9 percent of middle and high level attorneys.